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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,086	07/23/2003	Jeffrey A. Lee	2159-A (FJ-99-39A)	5940
40256	7590	07/01/2004	EXAMINER	
FERRELLS, PLLC P. O. BOX 312 CLIFTON, VA 20124-1706			ALVO, MARC S	
			ART UNIT	PAPER NUMBER
			1731	
DATE MAILED: 07/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/625,086	Applicant(s) LEE, JEFFREY A.	
	Examiner Steve Alvo	Art Unit 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 64-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 64-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 64-79 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over WO 97/45483 with or without HU (6,413,362) or HU et al (6,506,282).

The process steps cannot be given probative weight in a product claim. WO 97/45483 teaches an absorbent sheet made from kraft pulp having a curl index of 0.15 after treatment (curl index 0.9 before treatment). Any difference would have been an obvious modification of WO 97/45483. Whether the fiber is secondary fiber or new fiber cannot be given weight in a product claim. It does not matter where the fiber came from. The properties of secondary kraft fiber would not differ from kraft fiber after it is made into the absorbent sheet. The product of WO 97/45483 is formed in the same manner as the instant product and would have the same properties. See WO 97/43483, Example 1, for using blends of pulp. If necessary HU teaches blending curled fibers with uncurled fibers, see claim 9. It would have been obvious to form a blend of curled and uncurled fibers as taught by HU or HU et al. It would also have been obvious to use kraft or secondary fiber, as such is taught by HU or HU et al Patents.

Claims 13 and 64-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/45483 with or without HU (6,413,362) or HU (6,506,282) as set forth above in the rejection of claim 13, in view of KASSER et al.

Art Unit: 1731

If any weight is given to the permanency of the curl, then it would have been obvious to dry the sheet of WO 97/45483 before the fibers restraighten as such is taught by KASSER et al, see claim 1.

Claims 70-79 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/45483 with or without HU (6,413,362) or HU et al (6,506,282) with or without KASSER as applied to claim 13 above, further in view of DUNNING et al.

If necessary, DUNNING et al teaches using kraft secondary fibers to produce absorbent products, see Example 1. It would have been obvious to one of ordinary skill in the art that the kraft fibers of WO 97/45483 could be secondary fibers as DUNNING et al teaches using secondary kraft fibers in an absorbent product.

Applicant's arguments that the instant sheet calls for curled and uncurled fibers is not convincing for the reasons set forth above. The sheets of the applied art can be blended with uncurled fiber, e.g. see HU, column 7, lines 27-34, and claim 9. The argument with respect to the "long" treatment times and "mechanical" pulp is not convincing as the claims are drawn to as product, not to a process. The way the product is made cannot be given probative weight in a product claim. Applicant has not shown the instant "product" to differ over the product of the applied art.

The Declaration of Jeffrey Lee has been considered, but is not convincing, as it does not compare the instant claims to the teachings of the closest prior art, e.g. WO 97/45483, KINSLEY and/or HU and/or HU et al.

Art Unit: 1731

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

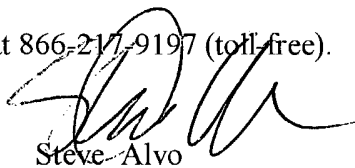
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Alvo whose telephone number is 571-272-1185. The examiner can normally be reached on 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steve Alvo
Primary Examiner
Art Unit 1731

msa